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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,199	07/20/2000	John E. Parker	460079.403	3569
34071	7590	12/19/2005	EXAMINER	
IPVENTURE, INC. 5150 EL CAMINO REAL SUITE A-22 LOS ALTOS, CA 94022			BOYCE, ANDRE D	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/620,199

Applicant(s)

PARKER ET AL.

Examiner

Andre Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 and 43-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 43-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/28/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 28, 2005 has been entered.
2. Claims 1, 17, 24, 45, and 53 have been amended. Claims 1-30 and 43-54 are pending.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claim 53 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 53 has been amended to recite "the route types being independent of geographic location." After reviewing the Applicant's specification, the Examiner has not found any language where the route types are independent of geographic location. Contrarily, Applicant's specification indicates that the routes typically represent a geographic area (at least page 2, lines 27-28 and page 6, lines 4-5), that the routes are organized according to geographic data (at least page 8, lines 15-17), and that each timeslot of a route is associated with geographical data (at least page 12, lines 20-21).

### ***Claim Rejections - 35 USC § 102***

6. Claims 45-51 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Edgar et al (USPN 5,848,395).

As per claim 45, Edgar discloses a computer-implemented method for creating a schedule of timeslot segments for a plurality of routes and timeslots (table 30 for storing a plurality of routes, column 1, lines 17-25 and figure 3), comprising receiving an identification of a selected day for which the schedule is desired, the selected day having a day of week associated therewith (i.e., appointments offered to customers); determining at least one possible route type (i.e., area in which appointments are booked is divided by region, thereby determining route type based upon region, column 1, lines 59-60) for the selected day (i.e., appointment server uses the routes

stored in the database, by region, to offer a number of possible appointments to customers, column 2, lines 20-25); determining at least one available route for the selected day based on the at least one possible route type for the selected day (i.e., appointments offered within predetermined time slots) and on a template storing predetermined routes for each day of the week (database 10 includes tables 30 one for each day in a predetermined window, column 1, lines 64-66), the predetermined routes stored within the template having route types, the at least one available route not being separated into the available route types (i.e., the region includes a number of routes associated therein, column 1, lines 59-60 and figure 2) and information within the template being independent of particular delivery persons; (i.e., route type determined by region, column 1, lines 59-63); and forming a schedule for the selected day in accordance with the at least one available route, the schedule including timeslots available to be scheduled for the at least one available route (e.g., customer accepts the offered appointment and the scheduler allocates the jobs to the resources).

As per claim 46, Edgar discloses determining at least one predetermined route in the template (table 30) with a route type that matches the route type of the at least one possible route type for the selected day (i.e., server uses the stored routes to offer a number of possible appointments, column 2, lines 20-22).

As per claim 47, Edgar discloses wherein the at least one available route is limited by the predetermined routes in the template that have the at least one possible route type (i.e., limited by number of routes stored).

As per claim 48, Edgar discloses the timeslots include schedulable timeslot segments, and wherein said method further comprises permitting a user to interact with the schedule to modify the number of schedulable timeslot segments for the timeslots (e.g., customer accepts the offered appointment).

As per claim 49, Edgar discloses alerting a user when the schedulable timeslot segments available to be scheduled are within a threshold amount of being completely scheduled (i.e., watchdog 16 monitors status of all jobs and initiates the scheduler if the number of appointments on a particular route exceeds a predetermined threshold, and provides a warning of jeopardy situations, column 3, lines 47-53).

As per claim 50, Edgar discloses each of the timeslots is associated with a geographical area (i.e., region, figure 2).

As per claim 51, Edgar discloses said determining of at least one possible route type (i.e., area in which appointments are booked is divided by region, column 1, lines 59-60) uses a calendar (e.g., database 10 includes a number of tables 30, one for each day in a predetermined window in which appointments may be offered, wherein the window may cover two weeks from the current date, thereby correlating calendar data to the appointment offered, column 1, lines 65-67).

Claim 53 is rejected based upon the rejection of claim 45, since it is the computer readable claim corresponding to the method claim.

***Claim Rejections - 35 USC § 103***

7. Claims 1-30, 43, 44, 52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edgar et al (USPN 5,848,395), in view of Hanzek (USPN 6,654,726).

As per claim 1, Edgar et al disclose method in a computer system for dynamically creating a schedule of timeslot segments for a plurality of routes and timeslots (appointment booking and scheduling system 10), the method comprising: determining from a calendar, a set of possible route types (i.e., area in which appointments are booked is divided by region, thereby determining route type based upon region, column 1, lines 59-60) for a selected day and a template identifier (routes 31 contained in table 30 for each day in a predetermined window, see figure 3); based upon the determined set of possible route types, retrieving a set of available route types from a template (table 30 for storing a plurality of routes, column 1, lines 17-20 and figure 3) identified by the template identifier (appointment server 12), wherein the available route types are limited to those route types that are within the set of possible route types, and wherein the template includes available route types, but not routes (i.e., appointment server uses the routes stored in the database, by region, to offer a number of possible appointments to customers, column 2, lines 20-25); for each available route type, determining a set of routes for the selected day (i.e., routes 31); and for each set of routes, creating in a data repository a set of schedulable timeslot segments that correspond to the selected day (database 11, see figure 1), wherein the routes are determined based on the

available route types, and wherein each of the routes is not separated into the available route types (i.e., the region includes a number of routes associated therein, column 1, lines 59-60 and figure 2), and the system thereafter schedules at least one delivery stop using one or more of the set of schedulable timeslot segments (i.e., the scheduler 13 extracts the jobs to be scheduled based upon appointments offered to customers and allocates jobs to resources for specific times, column 2, lines 20-22 and 47-49), the at least one delivery stop being for delivery of a product or service (e.g., service engineer).

Edgar does not explicitly disclose an electronic storefront system. Hanzek discloses a web-based system 310, including a consumer front end 339, used for product ordering, tracking, and delivery of consumer products (figure 3). Both Edgar and Hanzek are concerned with effective delivery of products to consumers. Scheduling service visits, as seen in Edgar, and scheduling delivery of a product, as seen in Hanzek, are both ultimately concerned with the optimization of a route, via an algorithm, in order to facilitate product and service delivery to the consumer in the most expeditious manner. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the electronic storefront in Edgar, as seen in Hanzek, as an efficient way to offer the customers in Edgar an interface to schedule appointments of the services offered.

As per claim 2, Edgar et al disclose for each set of routes, determining a set of timeslots, wherein a portion of the set of schedulable timeslot segments are created to correspond to each timeslot (i.e., the number of routes 31 corresponding to each



day in table 30, wherein the route including a start and end time, see column 2, lines 8-11).

As per claim 3, Edgar et al disclose wherein the number of created schedulable timeslot segments that correspond to each timeslot are based upon a potential number of timeslot segments associated with each timeslot (i.e., appointments offered within predetermined time slot associated with each route, see column 2, lines 26-27).

As per claim 4, Edgar et al disclose modifying the template such that data that corresponds to at least one of the set of timeslots are changed; and updating the created set of schedulable timeslot segments in the data repository to correspond to the changed data (upon acceptance of offered appointment, the time used and time left fields are updated, see column 2, lines 27-29).

As per claim 5, Edgar et al disclose the template identifier identifies one of the days of a week (see column 1, line 65).

As per claim 6, Edgar et al disclose wherein the method produces a delivery schedule, wherein as the schedulable timeslot segments are scheduled for the at least one delivery stop (i.e., appointments offered within predetermined time slots), the delivery schedule is updated (i.e., new job associated with route and time used and time left fields are updated, column 2, lines 26-29), and wherein the method further comprises alerting a user when the schedulable timeslot segments available to be scheduled are within a threshold amount of being completely scheduled (i.e., watchdog 16 monitors status of all jobs and initiates the scheduler if the number of

appointments on a particular route exceeds a predetermined threshold, and provides a warning of jeopardy situations, column 3, lines 47-53).

As per claim 7, Edgar et al disclose a schedulable timeslot segment corresponds to an event (e.g., events being appointments offered, column 1, lines 64-66)

As per claim 8, Edgar et al disclose the selected day is a date in the future (predetermined window may cover two weeks form the current date, see column 1, lines 66-67).

As per claim 9, Edgar et al disclose the method is used to create schedulable events for a sequence of days in the future (two weeks form the current date, see column 1, lines 66-67).

As per claim 10, Edgar et al disclose the schedulable timeslot segments are sent to another program to be allocated to actual events (appointment booking scheduler 13, see figure 1).

As per claim 11, Edgar et al disclose the actual events are scheduled delivery orders (i.e., delivery of service order from service engineers visiting customer sites, see column 1, lines 8-9).

As per claim 12, Edgar et al disclose the set of possible route types indicates that no routes are available for the selected day (i.e., total amount of free time is zero, see column 2, lines 56-58).

As per claim 13, Edgar et al disclose the set of possible route types indicates a holiday schedule is available for the selected day (see column 2, lines 42-44).

As per claim 14, Edgar et al disclose each route is based upon geographical data (see column 1, lines 48-50).

As per claim 15, Edgar et al disclose modifying the template such that data that corresponds to at least one of the set of routes are changed; and updating the created set of schedulable timeslot segments in the data repository to correspond to the changed data (scheduler uses optimization process to create a new table 30 representing a new set of routes, see column 2, lines 54-56).

As per claim 16, Edgar et al disclose using the determined set of routes to automatically generate in the data repository a set of schedulable timeslot segments that correspond to a different day (i.e., done via appointment scheduler, column 2, lines 54-56).

Claims 17-20 are rejected based upon the rejection of claims 1-3, and 6, respectively, since they are the computer readable medium claims, corresponding to the method claims.

As per claims 21 and 22, Edgar et al does not explicitly disclose an order to deliver groceries and the product or service purchased at an online grocery store. Hanzek discloses many retailers having established electronic storefront offering all kinds of products, including ordering and delivery of groceries (column 2, lines 1-3). Both Edgar and Hanzek are concerned with effective delivery of products to consumers. Scheduling service visits, as seen in Edgar, and scheduling delivery of a product, as seen in Hanzek, are both ultimately concerned with the optimization of a route, via an algorithm, in order to facilitate product and service delivery to the

consumer in the most expeditious manner. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include an electronic storefront for groceries in Edgar, as seen in Hanzek, thereby efficiently scheduling grocery deliver, thus expanding the robustness and flexibility of the Edgar system with different products/services.

As per claim 23, Edgar et al disclose scheduling the delivery of a product a plurality of days into the future (i.e., number of tables 30 for each day in a predetermined window, column 1, lines 64-66)

Claim 24 is rejected based upon the rejection of claims 1-3, since it is the system claim, corresponding to the method claims.

As per claim 25, Edgar et al disclose the available routes, timeslots, and numbers of potential timeslot segments per timeslot are grouped by day of week (tables 30 corresponding to each day of the week, see column 1, lines 64-65).

As per claim 26, Edgar et al disclose the user interface (gantt manager interface 15, see figure 1) comprises a collection of database forms (tables 30).

As per claim 27, Edgar et al disclose the elements comprise a database system (database 11, see figure 1).

As per claim 28, Edgar et al disclose a scheduled timeslot segment for a timeslot, for a route, for a designated calendar day that was created in the data repository is allocated to an order for a product or service (i.e., service engineers visiting customer sites, see column 1, lines 8-9).

As per claim 29, Edgar et al disclose a scheduled timeslot segment for a timeslot, for a route, for a designated calendar day that was created in the data repository is allocated to a particular customer (i.e., customer appointment, 25-28).

As per claim 30, Edgar et al disclose a timeslot segment is allocated to the particular customer based upon a rating system (i.e., the sequence of jobs is based upon the evaluated cost (rating) of the current sequence, see figure 5).

As per claims 43 and 44, Edgar discloses alerting a user when the schedulable timeslot segments available to be scheduled are within a threshold amount of being completely scheduled (i.e., watchdog 16 monitors status of all jobs and initiates the scheduler if the number of appointments on a particular route exceeds a predetermined threshold, column 3, lines 47-50).

As per claim 52, Edgar discloses a system thereafter schedules at least one delivery stop using one or more of the timeslots scheduled, the at least one delivery stop being for delivery of a product or service (i.e., the scheduler 13 extracts the jobs to be scheduled based upon appointments offered to customers and allocates jobs to resources for specific times, column 2, lines 20-22 and 47-49). Edgar does not explicitly disclose an electronic storefront system. Hanzek discloses a web-based system 310, including a consumer front end 339, used for product ordering, tracking, and delivery of consumer products (figure 3). Both Edgar and Hanzek are concerned with effective delivery of products to consumers. Scheduling service visits, as seen in Edgar, and scheduling delivery of a product, as seen in Hanzek, are both ultimately concerned with the optimization of a route, via an algorithm, in

order to facilitate product and service delivery to the consumer in the most expeditious manner. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the electronic storefront in Edgar, as seen in Hanzek, as an efficient way to offer the customers in Edgar an interface to schedule appointments of the services offered.

As per claim 54, Edgar discloses receiving an order regarding a purchase being requested by a user (i.e., request for an appointment by a customer), determining a selected day for which the order is to be delivered, the selected day having a day of week associated therewith (i.e., appointment offered within a predetermined time slot), and determining a delivery attribute to fulfill the order, with the attribute depending on both the selected day and the day of the week, and with the attribute not pertaining to time or day (i.e., use of routes stored in database to offer a number of possible appointments to customers), wherein an electronic system thereafter schedules at least one delivery stop based on the delivery attribute for fulfilling the order (scheduler 13). Edgar does not disclose an online store to enable a user to purchase goods or services over a computer network. Hanzek discloses a web-based system 310, including a consumer front end 339, used for product ordering, tracking, and delivery of consumer products (figure 3). Both Edgar and Hanzek are concerned with effective delivery of products to consumers. Scheduling service visits, as seen in Edgar, and scheduling delivery of a product, as seen in Hanzek, are both ultimately concerned with the optimization of a route, via an algorithm, in order to facilitate product and service delivery to the consumer in the most

expeditious manner. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the electronic storefront in Edgar, as seen in Hanzek, as an efficient way to offer the customers in Edgar an interface to schedule appointments of the services offered.

### ***Response to Arguments***

8. In the Remarks, with respect to claim 1, Applicant argues that Edgar et al does not appear to provide any teaching for different route types or route types that are available as determined by a template. The Examiner respectfully disagrees and submits that in Edgar et al, the route types are defined by geographic region (i.e., A, B, C, etc.), wherein the region includes a number of routes associated therein (column 1, lines 59-60 and figure 2). As such, tables 30 (i.e., template) are indeed defined by route type (i.e., region), which may not include the particular routes, as seen in figure 3, wherein the tables are merely divided by region. Further, since the tables 30 cover a designated period of time (i.e., two weeks), the route types are indeed determined from a calendar.

Applicant also argues that Edgar et al does not select a route based on the regions the route might cover, but instead, once a route is selected, then the regions for the route are known. The Examiner respectfully disagrees and submits that Edgar et al disclose a plurality of routes associated with each region, as discussed in the preceding paragraph. As such, a route is selected *necessarily* based upon the region the route covers.

Applicant also argues that the routes recited in claim 1 are not separated with respect to route type, whereas in Edgar et al the routes are separated by regions. The Examiner respectfully disagrees with Applicant's assertions and submits that Edgar et al associates routes with regions, as similarly seen in Applicant's specification, wherein each route is *associated* with a particular route type so that routes that match only certain route types can be used as template data (specification, page 9, lines 20-22).

Applicant also argues that Hanzek does not teach or suggest scheduling delivery stops using a set of schedulable timeslot segments. As seen in the above rejection, Hanzek is being relied upon to disclose an electronic storefront system, not to teach or suggest scheduling delivery stops using a set of schedulable timeslot segments. Further, Hanzek discloses a web-based system 310, including a consumer front end 339, used for product ordering, tracking, and *delivery* of consumer products (figure 3).

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Edgar and Hanzek are concerned with effective delivery of products to



consumers. Scheduling service visits, as seen in Edgar, and scheduling delivery of a product, as seen in Hanzek, are both ultimately concerned with the optimization of a route, via an algorithm, in order to facilitate product and service delivery to the consumer in the most expeditious manner.

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

With respect to claims 17, 24, 45, 53, and 54 the Examiner respectfully disagrees with Applicant's assertions, as seen in the response with respect to claim 1.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

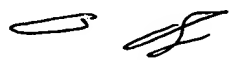
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

adb  
December 11, 2005

  
ANDRE BOYCE  
PATENT EXAMINER  
AU 3623